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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,653	12/20/2001	James M. Vignoles	NA11P048/01.183.01	2731
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Zilka-Kotab, PC P.O. BOX 721120 SAN JOSE, CA 95172-1120			PYZOCHA, MICHAEL J	
			ART UNIT	PAPER NUMBER
			2137	

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/028,653	<b>Applicant(s)</b> VIGNOLES ET AL.	
	<b>Examiner</b> Michael Pyzocha	<b>Art Unit</b> 2137	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 April 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5,7,10-16,18,21-23,26 and 28-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,7,10-16,18,21-23,26 and 28-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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**DETAILED ACTION**

1. Claims 1-5, 7, 10-16, 18, 21-23, 26, 28-33 are pending.
2. Amendment filed 04/18/2006 has been received and considered.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-5, 7, 12-16, 18, 23, 26, 29, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over ConSeal PC FIREWALL Technical Summary (hereinafter ConSeal) in view of Hari et al (Detecting and resolving packet filter conflicts) and further in view of Coss et al (US 6098172).

As per claims 1, 12, 23, 26 and 29, ConSeal discloses identifying a set of policies, each policy having a condition associated therewith; determining whether the conditions are met; and activating the policies whose associated conditions are determined to be met (see pages 1-2) wherein the activation of

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the policies includes adding the policies to a set of a plurality of active policies, and executing security actions associated with the active policies if associated limits are met (see pages 1-2).

ConSeal fails to disclose the conditions represent different policies, which are based on priority and determining and resolving any conflicts and the conditions include a time factor, which is at least one of a timeframe, a predetermined time period, and a time limit.

However, Hari et al teaches such policy priorities and conflict resolution (see page 1204 section II) and Coss et al teaches the use of a time factor (see column 2 lines 29-41).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Hari et al's priorities and conflict resolution and the time factors of Coss et al in the firewall system of ConSeal.

Motivation to do so would have been to avoid matching multiple filters with confliction actions (see Hari et al page 1204 section II) and to allow a given rule set to be modified based on events happening in the network without requiring that the entire rule set be reloaded (see Coss et al column 2 lines 29-41).

As per claims 2-3 and 13-14, the modified ConSeal, Hari et al and Coss et al system discloses activating the policies if the user confirms (see ConSeal page 2).

As per claims 4-5 and 15-16, the modified ConSeal, Hari et al and Coss et al system discloses updating includes receiving another inactive policy, determining whether the user accepts the inactive policy, and adding the inactive policy to the set if the user accepts the inactive policy (see ConSeal page 2).

As per claims 7 and 18, the modified ConSeal, Hari et al and Coss et al system discloses determining whether the conditions associated with the active policies are still met, and de-activating the active policies if the associated conditions are not met (see bottom of page 1 to the top of page 2).

As per claim 33, the modified ConSeal, Hari et al and Coss et al system discloses the identifying, determining and activating are controlled locally (see ConSeal page 1).

5. Claims 10 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified ConSeal, Hari et al and Coss et al system as applied to claims 1 and 12 above, and further in view of Beebe et al (US 200100141150).

As per claims 10 and 21, the modified ConSeal, Hari et al and Coss et al system fails to disclose the conditions include a source of the policies.

However Beebe et al teaches such condition (see paragraph 227).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to include the source of a policy in the conditions of the modified ConSeal, Hari et al and Coss et al system.

Motivation to do so would have been to implement a multi-tiered policy (see paragraph 226).

6. Claims 11 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified ConSeal, Hari et al and Coss et al system as applied to claims 1 and 12 above, and further in view of Porras et al (US 6704874).

As per claims 11 and 22, the modified ConSeal, Hari et al and Coss et al system fails to disclose the conditions include a severity of the security actions associated with the policies.

However, Porras et al teaches such a prioritization technique (see column 2 lines 46-51 where a more severe of the attack requires a more severe action).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Porras et al's

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prioritization teaching in the modified ConSeal, Hari et al and Coss et al system.

Motivation to do so would have been to allow for a tag to be included to relate the severity.

7. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified ConSeal, Hari et al and Coss et al system as applied to claim 1 above, and further in view of Brock et al (US 20030110393).

As per claim 28, the modified ConSeal, Hari et al and Coss et al system fails to disclose the conditions represent an urgency associated with an issue causing the policy to be activated.

However, Brock et al teaches such a priority based on urgency (see paragraph 5).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Brock et al's teaching of urgency based priority in the modified ConSeal, Hari et al and Coss et al system.

Motivation to do so would have been to alert the network administrator.

8. Claims 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified ConSeal, Hari et al and Coss et al system as applied to claim 1 above, and further in view of

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Cisco (IPSec User Guide for the Cisco Secure PIX Firewall Version 5.2).

As per claims 30-32, the modified ConSeal, Hari et al and Coss et al system fails to disclose three policies with different priorities having different valid time periods.

However Cisco teaches such policies (see "Enabling and Configuring IKE" pages 6-1 and 6-2).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the policies of Cisco in the modified ConSeal, Hari et al and Coss et al system.

Motivation to do so would have been to allow the firewall to use Internet Key Exchange (see top of page 6-1).

### ***Response to Arguments***

9. Applicant's arguments with respect to the newly added limitations to claims 1, 12, 23, 26 and 28 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 04/18/2006 have been fully considered but they are not persuasive. Applicant argues: ConSeal fails to disclose executing security actions associated with the active policies if associated limits are met; Hari teaches away from the claimed priority policy; ConSeal fails to disclose user confirmation to activate the policies; ConSeal



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fails to disclose receiving an inactive policy and adding it if the user accepts; Beebe fails to disclose the conditions include a source of the policies; Porras fails to disclose including a severity of security actions associated with the policies; Brock fails to disclose the conditions represent an urgency associated with an issue causing the policy to be activated.

With respect to Applicant's argument that ConSeal fails to disclose executing security actions associated with the active policies if associated limits are met, each time a packet is filtered (i.e. not allowed through the firewall) that is the ConSeal firewall executing a security action associated with the active policies when a limit is met.

With respect to Applicant's argument that Hari teaches away from the claimed priority policy, the priority based system of Hari teaches that each filter (i.e. policy) has a different priority and when a packet matches more than one filter, which ever filter has a higher priority is used. Therefore, Hari does not teach away from the claimed limitation of, "wherein a first policy with a higher priority has a first condition associated therewith that is different from a second condition associated with a second policy with a lower priority such that the first policy and second policy are activated under different priority related conditions".

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With respect to Applicant's argument that ConSeal fails to disclose user confirmation to activate the policies, when a rule in ConSeal has not been used before and the system is in Checked Learning Mode, the user is prompted to make a rule for the packet (i.e. allow or disallow). When the user selects an action the user is confirming the activation of a rule.

With respect to Applicant's argument that ConSeal fails to disclose receiving an inactive policy and adding it if the user accepts, ConSeal allows for an administrator to make a rule remotely and a user can download this rule (as evidenced by page 4 of the Mien reference supplied on 09/21/2005). When a user chooses to download a policy it is inactive and by going to download the policy the user is inherently accepting it.

With respect to Applicant's argument that Beebe fails to disclose the conditions include a source of the policies, the rules of Beebe are based on the source of the rules and every rule has conditions; therefore Beebe teaches the conditions include a source of the policy.

With respect to Applicant's argument that Porras fails to disclose including a severity of security actions associated with the policies, Porras teaches tagging alerts with a flag indicating the severity of the attack. These alerts are generated based on filtering conditions being met (see column 1

lines 51-62) and therefore are associated with the conditions being met.

With respect to Applicant's argument that Brock fails to disclose the conditions represent an urgency associated with an issue causing the policy to be activated, Brock teaches including an indication of urgency with an alert when a condition is met and since the indication is based on conditions being met causing the administrator to act the are causing a policy to be activated.

Applicant is reminded that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Each secondary reference is relied upon for a teaching and the combination must be considered as a whole.

#### **Conclusion**

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is

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reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pyzocha whose telephone number is (571) 272-3875. The examiner can normally be reached on 7:00am - 4:30pm first Fridays of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJP

  
**EMMANUEL L. MOISE**  
**SUPERVISORY PATENT EXAMINER**